

115TH CONGRESS  
2D SESSION

# H. R. 6754

To amend title 28, United States Code, to modify the structure of the Court of Appeals for the Ninth Circuit, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2018

Mr. ISSA (for himself and Mr. GOODLATTE) introduced the following bill;  
which was referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to modify the structure of the Court of Appeals for the Ninth Circuit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Court Imbalance Re-  
5 structure Concerning Updates to Impacted Tribunals Act  
6 of 2018” or the “CIRCUIT Act of 2018”.

7 **SEC. 2. DIVISIONS OF THE COURT OF APPEALS FOR THE**  
8 **NINTH CIRCUIT.**

9 (a) ESTABLISHMENT OF DIVISIONS.—

1           (1) IN GENERAL.—Chapter 3 of title 28, United  
2           States Code, is amended by adding at the end the  
3           following:

4   **“§ 50. Divisions of the Court of Appeals for the Ninth**  
5                           **Circuit**

6           “(a) IN GENERAL.—The Court of Appeals for the  
7           Ninth Circuit is divided into four divisions to be known  
8           as the Northern, Middle, Southern, and Circuit Divisions  
9           as follows:

10           “(1) NORTHERN DIVISION.—The Northern Di-  
11           vision comprises the judicial districts of Alaska,  
12           Idaho, Montana, Oregon, Eastern Washington, and  
13           Western Washington.

14           “(2) MIDDLE DIVISION.—The Middle Division  
15           comprises the judicial districts of Eastern California,  
16           Northern California, Guam, Hawaii, Nevada, and  
17           the Northern Mariana Islands.

18           “(3) SOUTHERN DIVISION.—The Southern Divi-  
19           sion comprises the judicial districts of Arizona, Cen-  
20           tral California, and Southern California.

21           “(4) CIRCUIT DIVISION.—The Circuit Division  
22           comprises all judicial districts within the Court of  
23           Appeals for the Ninth Circuit.

24           “(b) CIRCUITS IN WHICH DECISIONS REVIEW-  
25           ABLE.—

1           “(1) IN GENERAL.—Except as provided in sec-  
2           tions 1292(c), 1292(d), and 1295, appeals from re-  
3           viewable decisions of the district and territorial  
4           courts embraced in the Ninth Circuit shall be taken  
5           to the division of the court of appeals for the divi-  
6           sion embracing the district.

7           “(2) CIRCUIT DIVISION.—The following appeals  
8           shall be taken to the Circuit Division:

9                   “(A) Appeals of final agency actions.

10                   “(B) Appeals from the United States Tax  
11           Court.

12                   “(C) Appeals from another division of the  
13           court in the case that 2 or more divisions have  
14           made final decisions on a matter of law that  
15           conflict.

16                   “(D) Appeals from another division in the  
17           case that such division has denied an applica-  
18           tion for a rehearing en banc with respect to the  
19           matter appealed.

20           “(c) ASSIGNMENT OF JUDGES.—The judges ap-  
21           pointed to the Court of Appeals for the Ninth Circuit shall  
22           serve among the divisions as follows:

23                   “(1) Except for the Circuit Division, eleven  
24           judges shall serve on each division.

1           “(2) The Circuit Division shall be composed of  
2           the chief judge, and 4 judges randomly selected from  
3           each other division. Except with regard to the chief  
4           judge, and initial assignments to the Circuit Divi-  
5           sion, each judge serving on the Circuit Division shall  
6           serve for non-renewable 3-year term. With regard to  
7           initial appointments, of the judges assigned to serve  
8           on the Circuit Division, 4 judges shall be assigned  
9           for 1 year, 4 judges shall be assigned for 2 years,  
10          and 4 judges shall be assigned for 3 years, which as-  
11          signments shall be made on a random basis.

12           “(3) In the case that a judge serving on the  
13          Circuit Division is recused, another judge serving on  
14          the division of that judge’s regional division may  
15          serve in the place of the judge who is recused.

16           “(4) Section 45 shall apply with respect to—

17                   “(A) the designation of the chief judge of  
18                   the circuit; and

19                   “(B) the designation of the presiding judge  
20                   in each division, as though the division were a  
21                   court of appeals.

22           “(d) PANELS; HEARINGS; QUORUM.—Section 46  
23          shall apply to each division as though the division were  
24          a court of appeals. Section 6 of Public Law 95–486 (28

1 U.S.C. 41 note) shall not apply to the divisions established  
2 under this section.

3 “(e) CLERKS AND EMPLOYEES.—Section 711 shall  
4 apply to each division as though the division were a court  
5 of appeals.

6 “(f) PRECEDENT.—Except with respect to a decision  
7 of a Circuit Division described in subsection (b)(2)(C), the  
8 decision of one division is not binding on other divisions.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-  
10 tions for chapter 3 of title 28, United States Code,  
11 is amended by inserting after the item related to  
12 section 49 the following:

“50. Divisions of the Court of Appeals for the Ninth Circuit.”.

13 (b) CONFORMING AMENDMENTS.—Section 1294 of  
14 title 28, United States Code, is amended—

15 (1) by inserting after “sections” the following  
16 “50”; and

17 (2) by striking paragraph (4).

18 (c) REPORTS.—

19 (1) FEDERAL JUDICIAL CENTER REPORT.—Not  
20 later than 8 years after the date of the enactment  
21 of this Act, the Federal Judicial Center shall con-  
22 duct a study on the effectiveness and the efficiency  
23 of the divisions of the Court of Appeals for the  
24 Ninth Circuit and submit to the Judicial Conference  
25 of the United States a report which includes the re-

1 sults of the study, and information related to the ac-  
 2 tivities of the divisions.

3 (2) JUDICIAL CONFERENCE OF THE UNITED  
 4 STATES RECOMMENDATIONS.—Not later than one  
 5 year after receiving the report under paragraph (1),  
 6 the Judicial Conference of the United States shall  
 7 submit to Congress recommendations related to the  
 8 divisional structure of the Court of Appeals for the  
 9 Ninth Circuit, including whether such structure  
 10 should be continued with or without modification.

11 **SEC. 3. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF AP-**  
 12 **PEALS.**

13 (a) IN GENERAL.—The President shall appoint, by  
 14 and with the advice and consent of the Senate, 5 addi-  
 15 tional circuit judges for the ninth circuit court of appeals.

16 (b) TABLES.—In order that the table contained in  
 17 section 44 of title 28, United States Code, will, with re-  
 18 spect to each judicial circuit, reflect the changes in the  
 19 total number of permanent circuit judgeships authorized  
 20 as a result of subsection (a) of this section, such table  
 21 is amended to read as follows:

<b>“Circuits</b>	<b>Number of Judges</b>
District of Columbia .....	11
First .....	6
Second .....	13
Third .....	14
Fourth .....	15
Fifth .....	17
Sixth .....	16

**“Circuits**

**Number  
of Judges**

Seventh .....	11
Eighth .....	11
Ninth .....	34
Tenth .....	12
Eleventh .....	12
Federal .....	12”.

